

CITY OF TIGARD, OREGON

RESOLUTION NO. 02-14

A RESOLUTION TO REVISE RESOLUTION NO. 00-08, CITYWIDE PERSONNEL POLICIES, UPDATING FAMILY AND MEDICAL LEAVE ARTICLE NO. 55-0

WHEREAS, the City Council previously adopted Resolution No. 00-08, Citywide Personnel Policies including Family and Medical Leave Article 55.0, and

WHEREAS, the laws governing the State and Federal Family and Medical Leave Acts have recently been amended, and

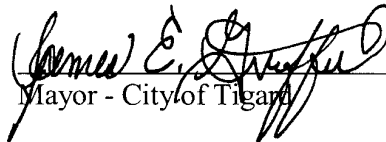
WHEREAS, the City of Tigard needs to update their Family and Medical Leave policy to be in compliance with the State and Federal Family and Medical Leave laws as well as applicable City policies and bargaining agreements

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: Citywide Personnel Policies, Family and Medical Leave Article 55.0 be updated to assure compliance with all recently amended State and Federal laws as well as applicable City policies and bargaining agreements.

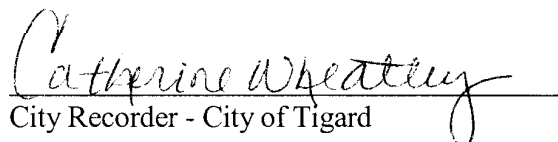
EFFECTIVE DATE: March 12, 2002

PASSED: This 12th day of March, 2002.



Mayor - City of Tigard

ATTEST:



City Recorder - City of Tigard

PERSONNEL POLICIES

No. 55.0

Pg. 1 of 7

ATTACHMENT A

FAMILY AND MEDICAL LEAVES OF ABSENCE POLICY

This policy is established to comply with both the Oregon and Federal Family and Medical Leave Act which entitle eligible employees to 12 weeks of job-protected leave every 12 months for family and medical reasons. The intent of this policy and the law is to allow City employees to balance their work and family life by taking reasonable, unpaid leave of absences for the reasons specified in these rules and regulations.

The City's family medical leave policy combines benefits required by the federal Family and Medical Leave Act (FMLA) and state law.

EMPLOYEE ELIGIBILITY

An employee must have been employed by the City for at least 180 days for an average of 25 hours of work per week during the previous 180 days. Exception: The hourly prerequisite does not apply to parental leave.

PERMISSIBLE REASONS FOR TAKING LEAVE

- ⇒ Birth of a child (also referred to as "Parental Leave").
- ⇒ Placement of a child under the age of 18 (or older if the child is mentally or physically disabled) with the employee for adoption or foster care (also referred to as "Parental Leave").
- ⇒ Care of a family member (spouse, child, parent, **same-sex domestic partner**, or parent-in-law) with a serious health condition or for a child requiring home care due to illness extending longer than three days. Leave to care for a **same-sex domestic partner** or parent-in-law is only required by State law. (This type of leave may be referred to as "Serious Health Condition Leave.")
- ⇒ To recover from or seek treatment for a serious health condition of the employee when the employee is unable to perform at least one essential function of his/her regular position. Serious health conditions include on-the-job injuries, pregnancy related disabilities, and prenatal care (may also be referred to as "Serious Health Condition Leave").
- ⇒ To care for a child who suffers from an illness or injury that does not qualify as a serious health condition but that requires home care (may also be referred to as "Sick Child Leave" and is only required by state law). If "Sick Child Leave" is requested to care for a child who does not have a serious health condition, the City has the right to not approve the employee's request for leave when another family member is available to care for the child. **"Sick Child Leave" applies only to the Oregon Family Leave law.**

PERSONNEL POLICIES

No. 55.0

Pg. 2 of 7

DURATION OF LEAVE

- ⇒ Twelve work weeks during a rolling 12-month period computed forward from the date the employee first uses FMLA leave.
- ⇒ Taking leave on an intermittent basis or on a reduced work schedule may be permitted by the City if necessary to take care of an ill family member or because of the employee's own health condition. In either case, documentation by a medical professional is necessary. Leave of this nature must be approved in advance by the City and employees must make a reasonable effort to minimize disruption in the work unit. Intermittent leave will be calculated on an hourly basis which computes to 480 hours per year.
- ⇒ Parental leave must be taken within 12 months after the birth/placement of a child. Leave may be taken non-consecutively, but if more than two (2) non-consecutive leaves are taken within the 12-month period, the employee must receive prior authorization from the City Manager or Human Resources Director.
- ⇒ **Under the Oregon Family Leave law, employees who take parental leave are also entitled to an additional 12 weeks of family leave to care for a sick child *only if the full 12 weeks of parental leave has been exhausted during the parental leave year. Employees not using the full 12 weeks of parental leave are only entitled to the balance of their 12 week entitlement for the purposes of sick-child or any other type of OFLA leave.***
- ⇒ Female employees who must take leave because of a pregnancy-related disability which prevents the employee from performing any available job duties as documented by the employee's treating physician or health care provider, may take an additional 12 weeks for other purposes approved under the law.

Sometimes more than one type of leave may apply to a situation. Where allowed by federal or state law, leaves will run concurrently. This means that worker's compensation leave, leave for a non-industrial injury or illness (including paid leave such as sick leave), leave as a reasonable accommodation for a qualified individual with a disability, paid vacation used for a family leave qualifying reason, and federal family medical leave and state family medical leave may all run concurrently and be counted against the employee's annual family medical leave entitlement. **All applicable leave will be governed by City policies, bargaining agreements, State laws, and/or Federal laws.**

CITY'S RESPONSIBILITIES

- ⇒ If the City (specifically the employee's supervisor, Human Resources, or any other management employee) acquires knowledge that an employee may need to take FMLA leave for any of the reasons specified in these policies, the City will inform the employee of their entitlement to request leave within 2 working days.

PERSONNEL POLICIES

No. 55.0

Pg. 3 of 7

- ⇒ Human Resources will furnish the employee with a copy of this policy, a leave request form, and the required medical certification form. This information must be completed and returned to the employee's supervisor within the timelines stipulated under "Employee's Responsibilities."
- ⇒ After the supervisor has acquired all the necessary signatures on the leave request form, it should be forwarded to Human Resources who will determine the employee's eligibility and make a entitlement designation within 2 working days of receipt of the completed request forms. Notification will be in writing.
- ⇒ It is the City's right and responsibility to determine and designate leave as FMLA if the eligibility standards are evident. Such a designation will be based on information obtained either from the employee or his/her spokesperson (e.g., spouse, parent, physician, etc.) in the event the employee is incapacitated.
- ⇒ If the City is unable to confirm that the requested leave qualifies as FMLA leave, it may declare a preliminary designation regarding eligibility. However, upon receipt of the medical information, the City must either withdraw or finalize the preliminary designation in writing to the employee.

SUPERVISOR'S RESPONSIBILITIES

- ⇒ When a supervisor becomes aware of a pending leave of absence which might qualify for FMLA leave, the supervisor will provide the employee with a brief summary of their FMLA rights and advise the employee to contact Human Resources for more details. The supervisor should **immediately** advise Human Resources of this referral.
- ⇒ After the supervisor reviews the leave request, they must immediately forward the request form to the appropriate signing authority (i.e., Department Head, City Manager, Human Resource Director). It is the supervisor's responsibility to assure that all necessary signatures are acquired and that the signed leave request form is submitted to Human Resources within one (1) working day after receipt from the employee.
- ⇒ All medical documentation must be forwarded to Human Resources. No medical files shall be retained at the supervisor's desk. It is also important to remember that the supervisor must protect the confidentiality of the employee. Information should be shared only on "as need to know" basis and no specifics should be shared with the employee's co-workers.
- ⇒ The supervisor is required to process a Personnel Action form with all the appropriate signatures for the employee's leave of absence.

PERSONNEL POLICIES

No. 55.0

Pg. 4 of 7

- ⇒ The supervisor should make arrangements with the employee for the completion and submittal of timesheets. Timesheets need to be processed by standard Payroll procedures.
- ⇒ The supervisor should make every effort to maintain ongoing communication with the employee during his/her absence for the purpose of acquiring status reports especially in regards to the employee's return to work date. Contacts should take place at least every 30 days.
- ⇒ The supervisor should notify Human Resources of the employee's pending return to work and acquire any necessary medical release information prior to the employee's return to the job.

EMPLOYEE'S RESPONSIBILITIES

- ⇒ The employee should notify their supervisor of any pending leave of absence and contact Human Resources for additional details of their FMLA rights.
- ⇒ The employee is required to submit a completed City of Tigard "Family and Medical Leave of Absence Request" form to their supervisor within the following time frames:
 - a) When leave is anticipated, written notice must be provided at least 30 calendar days prior to the start of leave. "Anticipated" refers to an employee having knowledge at least 30 calendar days in advance.
 - b) When leave is unexpected, verbal notice must be provided to the supervisor or Human Resources within 24 hours of the leave commencement plus written notice must be forwarded to Human Resources within 3 days after returning to work.
 - c) Failure to comply with providing proper notice will result in delaying the leave until proper notice is received.
- ⇒ The employee should submit any required written verification from their treating physician or health care provider based on the timeframes and guidelines identified under the "Medical Certification" section below.
- ⇒ The employee should make arrangements with their supervisor for the completion and submittal of timesheets during their leave of absence.
- ⇒ The employee should keep their supervisor and Human Resources apprised of their situation on a regular basis.
- ⇒ The employee should inform their supervisor and Human Resources of their intent to return to work as soon as their treating physician has informed them of the release date.

PERSONNEL POLICIES

No. 55.0

Pg. 5 of 7

- ⇒ The employee should forward any required medical release documentation from their treating physician or health care provider to Human Resources at least one day prior to returning to work.

MEDICAL CERTIFICATION

- ⇒ The City requires written verification from the treating physician or health care provider at least 30 days prior to the start of the leave for an anticipated serious health condition relating to either the employee or the employee's family member on a form furnished by the City.
- ⇒ In cases where the serious health condition is unanticipated, the employee has 15 days from the date of the City's request to provide the required medical certification.
- ⇒ The City has the right to solicit a second and, if necessary, a third opinion to verify the health care provider's certification of a serious health condition. This verification will be at the City's expense.
- ⇒ If the required medical certification does not validate the necessity for FMLA leave, the leave will be retracted. In this situation, employees may be placed on unapproved leave of absence and the time originally counted toward their FMLA entitlement will be revoked.
- ⇒ For employees on approved intermittent family medical leave, additional medical certification may be required upon expiration of the current medical certification or every 30 days as deemed necessary by the City.
- ⇒ The City also requires the employee to contact their supervisor with a status report at least every 30 days. In addition, the employee must inform their supervisor of their intent to return to work at least one day before returning to the job.
- ⇒ In the case of the employee's own serious illness, a medical release form will be required before returning to work.
- ⇒ If an employee has used leave to care for a sick child on **more than three occurrences separate occasions** in the past a 12 months **leave period**, upon request the employee must provide medical documentation that their child was ill and required home care to support any additional use of sick child leave.

PERSONNEL POLICIES

No. 55.0

Pg. 6 of 7

USE OF PAID LEAVE TIME

- ⇒ The City requires the substitution of accumulated sick leave prior to or during the duration of FMLA leave **as provided by applicable City policies, bargaining agreements, State laws, and/or Federal laws** ~~unless the leave is running concurrent with Worker's Compensation leave and the employee is receiving time loss benefits.~~
- ⇒ After sick leave has been exhausted, employees are required to use any other accumulated paid time (i.e., vacation, ~~compensatory time~~, management leave, floating holiday, **appointment leave**, etc.) **as provided by applicable City policies, bargaining agreements, State laws, and/or Federal laws** during their leave of absence before being placed on unpaid leave status. **Earned time (i.e., compensatory time and M2 time) is not eligible to be used during approved Oregon and/or Federal Family Medical Leave unless otherwise provided by applicable City policies, bargaining agreements, State laws, and/or Federal laws.**
- ⇒ Employees are required to notify their supervisor of the order in which accumulated paid time (after sick leave has been exhausted) is to be used during the period of time they are on FMLA leave **as provided by applicable City policies, bargaining agreements, State laws, and/or Federal laws.**

BENEFIT CONTINUATION

- ⇒ The City will continue to maintain group health insurance coverage for the employee for the duration of their leave on the same terms as if the employee is working. This includes medical, vision, and dental. If applicable, the employee is responsible for paying their share of health insurance premiums while on leave - arrangements will be made prior to the start of the leave.
- ⇒ Non-medical related benefits (i.e., LTD, Life, etc.) are the responsibility of the employee when on leave without pay status.
- ⇒ Once an employee is placed on leave without pay status as a result of using all their accumulated paid leave, the employee will not continue to accrue time and benefits associated with the employee's length of service.
- ⇒ If the employee chooses not to return to the City after their FMLA leave (other than as a result of their **own** serious health condition), the City has the right to recoup any health insurance costs spent in their behalf.
- ⇒ If the employee does not return to work after the allotted 12 weeks (either by choice or inability), they will be eligible for continuation of health benefits through COBRA provided the employee does not have other health coverage.

PERSONNEL POLICIES

No. 55.0

Pg. 7 of 7

REINSTATEMENT

- ⇒ The City will make every effort to reinstate the employee in their former position.
- ⇒ If reinstatement to the employee's former position is not possible due to the unanticipated elimination of the position during the time of the employee's absence, the employee will be reinstated to an equivalent position if one exists. If the employee is covered by a collective bargaining agreement, reinstatement will comply with the terms of the agreement.

Revised 1/02